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Art Unit: 2143

REMARKS

Reconsideration and allowance in view of the following remarks are respectfully

requested.

By this proposed amendment, Applicants propose amending claims 3, 4, 11 and 16

and canceling claims 5 and 21 without prejudice or disclaimer. Claims 3, 4, 6-18, 20, 22 and

24-28 remain pending.

Finality of Rejection

Applicants note that on page 2 of the Final Office Action of December 20, 2005, the

Examiner stated that Applicants' substantial amendment necessitated a new ground for

rejection of the claims. Applicants disagree.

Applicants wish to point out that in the amendment of September 16, 2005, claim 3

was amended to be in independent form to include the features of canceled claims 1 and 2,

claim 22 was amended to be in independent form to include the features of canceled claim 19

and claim 21, claim 24 was amended only to delete the phrase "the steps of" from line 2 of

the claim, and claim 25 was newly added. Applicants note that in the amendment of

September 16, 2005, claim 3 was further amended to include the phrase "at least partly" on

line 7 of the claim. However, Applicants submit that this was not a substantial amendment to

the claim. Claims 3, 22, 24 and 25 were the only independent claims.

Applicants submit that the arguments with respect to the rejection of claims 3, 22 and

24 must have been persuasive at least because the Examiner did not maintain the rejection of

the Office Action of September 16, 2005, but instead, found it necessary to include a new

reference in the rejection. For at least the above reasons, Applicants submit that the present

Office Action should not be a Final Office Action and respectfully request that the finality of

the rejection be withdrawn and the proposed amendments entered.

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Rejection of Claims 3-18, 20-22 and 24-28

On page 2 of the Office Action, the Examiner rejected claims 3-18, 20-22 and 24-28

under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 6,185,619 to

Joffe et al. ("Joffe") in view of U.S. Patent No. 6,415,323 to McCanne et al. ("McCanne").

Applicants propose canceling claims 5 and 21 without prejudice or disclaimer, thereby

making the rejection of claims 5 and 21 moot. Applicants, therefore, respectfully request that

the rejection of claims 5 and 21 be withdrawn. Applicants submit that the amendments to

claim 3 obviate the rejection with respect to claims 3, 4 and 6-18. Applicants traverse the

rejection with respect to claims 20, 22 and 24-28.

Amended independent claim 3 is directed to a method of serving content in a packet-

switched network. The method includes, among other things, choosing from a plurality of

content distribution networks which content distribution network will respond to a content

request from a client, wherein one of the plurality of content distribution networks is chosen

only if a measured load of the one of the plurality of content distribution networks does not

exceed a predetermined capacity reserved on the one of the plurality of content distribution

networks.

The newly added feature of claim 3 is similar to a feature of canceled claim 5. On

page 5 of the Office Action, with respect to claim 5, the Examiner alleged that McCanne, at

col. 17, lines 25-41, discloses or suggests that the content distribution network is chosen only

if a measured load of the one of the plurality of content distribution networks does not exceed

a predetermined capacity reserved on the content distribution network. Applicants

respectfully disagree.

McCanne, at col. 17, lines 25-41, discloses:

One potential problem with the service rendezvous mechanism described
above is that a given service node installation may run out of capacity because
too many clients are routed to that installation. This may be solved in an

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embodiment where the redirection system is capable of redirecting client
service requests across the wide area in cases of overload. For example, if all
of the local service nodes are running at capacity, the redirector can choose a
non-local service node and redirect the client accordingly. This redirection
decision can in turn be influenced by network and server health
measurements. In this approach, the redirector sends period "probe" messages
to the candidate servers to measure the network path latency. Since the
redirector is typically near the requesting client, these redirector-to-server
measurements represent an accurate estimate of the corresponding network
path between the client and the candidate server.

Thus, McCanne discloses that if all of the local service nodes run at capacity, a

redirector can redirect a client to a non-local service node. McCanne fails to disclose or

suggest that a predetermined capacity is reserved on the content distribution network.

Applicants submit that because a redirector of McCanne may not redirect a client until all

local service nodes are running at capacity, this suggests that at least the local service nodes

are chosen without any consideration to a reserved capacity. That is, as long as all of the

local service nodes are not running at full capacity, suggesting that no capacity is reserved,

the local service nodes will service a client.

McCanne does disclose that the redirector may send probe messages to candidate

servers to measure network path latency. However, McCanne is totally devoid of disclosing

or suggesting choosing from a plurality of content distribution networks which content

distribution network will respond to a content request from a client, wherein one of the

plurality of content distribution networks is chosen only if a measured load of the one of the

plurality of content distribution networks does not exceed a predetermined capacity reserved

on the one of the plurality of content distribution networks, as required by amended claim 3

and dependent claims 4 and 6-18.

On page 4 of the Office Action of June 19, 2005, the Examiner admitted that Joffe is

silent with respect to the content distribution network being chosen only if the measured load

on the content distribution network does not exceed a predetermined capacity reserved on the

content distribution network. Therefore, Applicants submit that claim 3 and dependent

claims 4 and 6-18 are patentable over Joffe in view of McCanne for at least the reasons

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discussed above. Applicants, therefore, respectfully request that the rejection of claims 3, 4

and 6-18 be withdrawn.

Independent claim 22 is directed to a brokering domain server including, among other

things, a policy module which directs a domain name system engine to answer domain name

system queries in accordance with a predetermined policy which resolves a domain name to a

server in a content distribution network chosen from a plurality of content distribution

networks, wherein the policy module further includes an interface to information received

from the plurality of content distribution networks and wherein the policy module modifies

the predetermined policy in response to the information, and the information further includes

load information and the predetermined policy reflects capacity <u>reserved</u> on each of the

plurality of content distribution networks.

For at least reasons similar to those discussed with respect to claim 3, Applicants

submit that both <u>Joffe</u> and <u>McCanne</u> do not disclose or suggest that capacity is reserved on

each of the content distribution networks, as required by claim 22.

Further, on page 9 of the Office Action, the Examiner alleged that <u>Joffe</u>, at col. 5,

lines 45-59, discloses that the information further includes load information and the

predetermined policy reflects capacity reserved on each of the content distribution networks,

as required by claim 22. Applicants disagree.

<u>Joffe</u>, at col. 5, lines 41-67, discloses:

> The user interface input devices typically includes a keyboard and may further
> include a pointing device and a scanner. The pointing device may be an
> indirect pointing device such as a mouse, trackball, touchpad, or graphics
> tablet, or a direct pointing device such as a touchscreen incorporated into the
> display. Other types of user interface input devices, such as voice recognition
> systems, are also possible.
>
> The user interface output devices typically include a printer and a display
> subsystem, which includes a display controller and a display device coupled to
> the controller. The display device may be a cathode ray tube (CRT), a flat-
> panel device such as a liquid crystal display (LCD), or a projection device.
> Display controller provides control signals to the display device and normally
> includes a display memory for storing the pixels that appear on the display

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device. The display subsystem may also provide non-visual display such as audio output.

The memory subsystem typically includes a number of memories including a main random access memory (RAM) for storage of instructions and data during program execution and a read only memory (ROM) in which fixed instructions are stored. In the case of Macintosh-compatible personal computers the ROM would include portions of the operating system; in the case of IBM-compatible personal computers, this would include the BIOS (basic input/output system).

Applicants submit that the cited portion of Joffe has nothing at all to do with the feature that the Examiner alleges is disclosed by Joffe. Joffe is absolutely silent with respect to such a feature.

MPEP §2142 states:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicants submit that the Examiner failed to show that the prior art references, when combined, teach or suggest all of the claim limitations of claim 22. Therefore, Applicants submit that the Examiner failed to make a proper *prima facie* case of obviousness with respect to independent claim 22 and dependent claim 20.

For at least the reasons discussed above, Applicants respectfully request that the rejection of claims 22 and 20 be withdrawn.

Independent claim 24 is directed to a method of redirecting content requests between content distribution networks. The method includes, among other things, retrieving a document and rewriting the document so that embedded content references (contained in the document) point to content stored at a chosen content distribution network. On page 9 of the

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Final Office Action, the Examiner alleged that McCanne, at col. 17, lines 25-41, discloses

this feature. Applicants respectfully disagree.

As previously discussed, McCanne, at col. 17, lines 25-41, discloses:

One potential problem with the service rendezvous mechanism described
above is that a given service node installation may run out of capacity because
too many clients are routed to that installation. This may be solved in an
embodiment where the redirection system is capable of redirecting client
service requests across the wide area in cases of overload. For example, if all
of the local service nodes are running at capacity, the redirector can choose a
non-local service node and redirect the client accordingly. This redirection
decision can in turn be influenced by network and server health
measurements. In this approach, the redirector sends period "probe" messages
to the candidate servers to measure the network path latency. Since the
redirector is typically near the requesting client, these redirector-to-server
measurements represent an accurate estimate of the corresponding network
path between the client and the candidate server.

Applicants submit that the cited portion of McCanne discusses redirecting a client to

a non-local service node. However, McCanne fails to disclose or suggest rewriting a

retrieved document so that embedded content references (contained in the document) point to

content stored at a chosen content distribution network, as required by independent claim 24.

Applicants submit that Joffe fails to satisfy the deficiencies of McCanne. Therefore,

Applicants respectfully request that the rejection of claim 24 be withdrawn.

Independent claim 25 recites features similar to those of amended independent claim

3. Applicants submit that independent claim 25 and dependent claims 26-28 are patentable

over Joffe in view of McCanne for at least reasons similar to those provided with respect to

claim 3. Therefore, Applicants respectfully request that the rejection of claims 25-28 be

withdrawn.

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CONCLUSION

Having addressed all rejections, Applicants respectfully submit that the subject

application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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